

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

UNITED STATES OF AMERICA

CASE NO. 06-20676

HONORABLE PAUL D. BORMAN

v.

D-2, KEVIN SMITH

PROTECTIVE ORDER

Pursuant to Federal Rule of Criminal Procedure 16(d)(1), and for the reasons previously stated on the record, this Court finds that the government has demonstrated good cause why the un-redacted search warrant affidavit in this case should not be disclosed to the defense.

IT IS HEREBY ORDERED, that the government shall disclose a copy of the search warrant affidavit to defense counsel, subject to the following conditions that both the government and defense counsel must comply with.

1. The government shall provide one copy of the search warrant affidavit to defense attorney James Gerometta. The affidavit shall be redacted in conformity with the Court's ex-parte on the record directive to the government on May 25, 2007.
2. Mr. Gerometta may not reproduce (by photocopy or otherwise) his copy of the affidavit. Whether inadvertent or otherwise, Mr. Gerometta may not share, discuss, disclose, or otherwise convey the substance of the affidavit's contents to his client, Kevin Smith, or any other person, with the exception of those noted in paragraph three. These restrictions do not expire.
3. Mr. Gerometta may disclose the substance of the affidavit's contents with co-counsel, Brad Hall. Mr. Hall is subject to the limitations contained in this order.
4. Disclosure of the affidavit is granted for the limited purpose of allowing Mr.

Gerometta to evaluate it in the context of deciding what, if any, challenges to raise to the search warrant in the instant case. In making such a challenge, if Mr. Gerometta wants to make arguments based upon the facts and inferences from the affidavit, such arguments, whether written or oral, must be made under seal.

5. Once litigation in this Court regarding the search warrant is complete, Mr. Gerometta must return the copy of the warrant affidavit to the government. The government must maintain a sealed copy of the affidavit in the event it is necessary for appellate proceedings.

SO ORDERED.

s/Paul D. Borman
PAUL D. BORMAN
UNITED STATES DISTRICT JUDGE

Dated: May 25, 2007

CERTIFICATE OF SERVICE

Copies of this Order were served on the attorneys of record by electronic means or U.S. Mail on May 25, 2007.

s/Denise Goodine
Case Manager